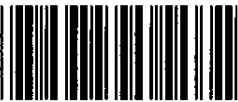


USDC SCAN INDEX SHEET



LLB 5/17/00 15:49

3:00-CV-00999 VARGAS V. DOES

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CMP.

ALCANTARA FRAME & FORMBY
 JAMES W. ALCANTARA (#152747)
 Emerald Plaza Suite 1170
 402 West Broadway
 San Diego, CA 92101
 Telephone: (619) 233-5900
 Facsimile: (619) 233-5999

Attorneys for Plaintiff-in-Limitation
 RICHARD VARGAS

FILED
 00 MAY 16 AM 11:07

BY:  DEPUTY

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

)	No. 00 CV 0999	L (LSP)
)		
In the Matter of the Complaint of Richard Vargas as)	COMPLAINT FOR EXONERATION	
a Registered Owner of the 1990 Glastron 19, HIN -)	FROM OR LIMITATION OF	
GLAT3699C090, her engines, tackle, apparel, etc., in)	LIABILITY	
a cause of Exoneration From or Limitation of)		
Liability.)	F.R.Civ.P. Supp. Rules for Certain	
)	Admiralty and Maritime Claims, Rule F	
)	("Supp. Rule F")	

TO THE HONORABLE JUDGES of this Court:

COMES NOW Plaintiff-in-Limitation, RICHARD VARGAS ("VARGAS") an individual, who files this Complaint in respect of the 1990 Glastron 19 (the "VESSEL"), HIN - GLAT3699C090, her engines, tackle, apparel, etc., in a cause of exoneration from or limitation of liability, civil and maritime, respectfully showing to the Court the following:

1. This is an admiralty and maritime action brought pursuant to 46 U.S.C. §§ 181 et. seq. and Federal Rules of Civil Procedure, Supplemental Rule F.

2. Jurisdiction is established with this Court in that the incident referred to herein occurred on a navigable waterway of the United States.

3. VARGAS is an individual, who at all times material hereto, was the registered owner of the VESSEL.

///

1
2 4. The VESSEL, was registered under the laws of the state of California, official number
3 being HIN - GLAT3699C090. The VESSEL had an overall length 19 feet.

4 5. On or around August 28, 1999, the VESSEL was engaged in navigation on the
5 navigable waters of the Colorado River, (the "RIVER"), in the state of Arizona. (the "VOYAGE").
6 The VESSEL was on a pleasure cruise. VARGAS was engaged in the sport of water-skiing while
7 a Debbie Kennedy ("KENNEDY"), piloted the VESSEL. There were an additional five passengers
8 onboard.

9 6. During the VOYAGE, an incident (the "INCIDENT") occurred resulting in personal
10 injuries and/or emotional injuries and/or death sustained by certain individuals.

11 7. On or around July 4, 1999, KENNEDY was navigating the VESSEL in a manner
12 consistent with prudent seamanship and in compliance with all navigational rules.

13 8. At the time of the INCIDENT, the VESSEL was traveling northbound on the east side
14 of the river and when a personal watercraft, ("PWC"), came into the path of the VESSEL.

15 9. On information and belief the operator of the PWC sustained injuries which resulted
16 in his death.

17 10. At all material times, VARGAS used due diligence to make sure that the VESSEL
18 was tight, staunch, strong and in all respects seaworthy and properly manned, equipped, supplied and
19 fit for the service for which she was engaged.

20 11. Any alleged injuries sustained by anyone during the INCIDENT were the result of
21 conditions or circumstances not within the privity or knowledge of VARGAS.

22 12. As a direct result of the INCIDENT, the VESSEL was damaged and has a value
23 estimated to be \$1,000.00. There was no freight pending.

24 13. Any person's injuries arising from the INCIDENT were not caused or contributed to
25 by any fault or privity, negligence or want of care on the part of VARGAS; nor were the injuries
26 caused or contributed by any design or neglect of VARGAS.

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1 14. The estate of decedent has not filed a claim with VARGAS' insurance company.

2 15. A number of unspecified claims against VARGAS have been made by the passengers
3 of the vessel.

4 16. Without conceding liability, and reserving the right to fully contest liability,
5 VARGAS invokes and claims the application and protection of 46 U.S.C. §§ 181 et. seq., and
6 Supplemental Rule F, and of all other statutes limiting a vessel owner's liability, and allege that his
7 liability, if any, cannot exceed the sum \$1,000.00 being the value of the VESSEL at the end of the
8 VOYAGE. The value of the VESSEL is established by the Declaration of William W. Dials, which
9 is attached hereto as Exhibit "A".

10 WHEREFORE, Plaintiff prays as follows:

11 1. That notice of this proceeding be given as provided by statute and Federal Rule of
12 Civil Procedure, Supplemental Rule F;

13 2. That all persons having claims against Plaintiff-in-Limitation, Richard Vargas, by
14 reason of the INCIDENT described above be notified and required to file their claims in this
15 proceeding;

16 3. That this Court issue an injunction restraining commencement and prosecution of any
17 and all claims, suits or legal actions other than the present proceeding, against Plaintiff-in-Limitation,
18 Richard Vargas, their insurers, underwriters, vessels, or any other property owned or controlled by
19 Plaintiff-in-Limitation, Richard Vargas, arising out of the INCIDENT described herein;

20 4. That this Court make and enter its decree exonerating Plaintiff-in-Limitation, Richard
21 Vargas, from liability for the matters stated above or, if Plaintiff-in-Limitation, Richard Vargas, is
22 found liable in any way, limiting such liability to not more than \$1,000.00; and

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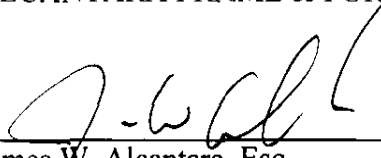
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1 5. That Plaintiff, Richard Vargas, be given such other and further relief as may be
2 deemed just and proper by this honorable Court.

3 Respectfully submitted,

4 ALCANTARA FRAME & FORMBY

5
6 
7 By: James W. Alcantara, Esq.
8 Attorneys for Plaintiff-in-Limitation,
9 Richard Vargas
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May 15 00 10:37a

Alcantara Frame&Formby SD (619)233-5999

p.1

1 ALCANTARA FRAME & FORMBY
 2 JAMES W. ALCANTARA (#152747)
 3 Emerald Plaza Suite 1170
 402 West Broadway
 3 San Diego, CA 92101
 Telephone: (619) 233-5900
 4 Facsimile: (619) 233-5999

5 Attorneys for Plaintiff-in-Limitation
 6 RICHARD VARGAS

7
 8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA
 10

11 _____) No
 12 In the Matter of the Complaint of Richard Vargas as)
 a Registered Owner of the 1990 Glastron 19. HIN -) DECLARATION OF VALUE
 13 GLAT3699C090, her engines, tackle, apparc, etc. in)
 a cause of Exoneration From or Limitation of)
 14 Liability.)
 15 _____)

16
 17 I, William W. Dials, DECLARE AS FOLLOWS

18 1. I am an accredited marine surveyor and a member of the Society of Accredited
 19 Marine Surveyors, accreditation number 603. I have personal knowledge of the following and if
 20 called to testify, could and would testify competently thereto.

21 2. I have inspected the 1990 Glastron 19. HIN - GLAT3699C090 following an accident
 22 which took place on July 4, 1999. The purpose of my inspection, among other things, was to
 23 evaluate the value of the vessel following that accident

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DECLARATION OF VALUE

May 15 00 10:37a

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p. 2

[illegible]

3. Based on the current NADA Used Boat Price Guide and the condition of the vessel as it appeared to be normally used, the estimated fair market value of the vessel in an "as is, as inspected condition" has a value of \$1,000,000.

I declare the foregoing to be true and correct under penalty of perjury under the laws of the State of AZ. Executed this May 15, 2000 at BUENA VISTA CITY, AZ

By William W. Dials, AMS

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CIVIL COVER SHEET

ORIGINAL

JS 44
(Rev. 07/89)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

In the Matter of the Complaint of Richard Vargas as a Registered Owner of the 1990 Glastron 19, HIN-GLAT3699C090, her engines, tackle, apparel, etc., in a cause of Exoneration From or Limitation of Liability.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) AZ

DEFENDANTS

00 MAY 16 AM 11:06

DOES 1-100

BY:

DEPUTY

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

James W. Alcantara
ALCANTARA FRAME & FORMBY
402 West Broadway, Suite 1170
San Diego, CA 92101 619/233-5900

ATTORNEYS (IF KNOWN)

UNK

00 CV 0999

L (LSP)

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY

00:0000 AB
46 U.S.C. 180-189, FRCP, Supplemental Rule F
Exoneration From or Limitation of Liability

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 620 Copyrights <input type="checkbox"/> 630 Patent <input type="checkbox"/> 640 Trademarks SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395H) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DRWC/DRWW (405(g)) <input type="checkbox"/> 864 SSIO Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes - Other Statutory Actions <input checked="" type="checkbox"/> 990
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint.

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY NONE

JUDGE

DOCKET NUMBER

DATE 5/15/00

SIGNATURE OF ATTORNEY OF RECORD
James W. Alcantara, Esq.

#60200 \$150-100

The JS-44 Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3.3 and is used by the Clerk of Court for the purpose of initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

AFTER COMPLETING THE FRONT SIDE OF FORM JS-44C, COMPLETE THE INFORMATION REQUESTED BELOW.

Has this action previously been filed and dismissed, remanded, or closed?

X No Yes Case No.

RELATED CASE(S), IF ANY: none

CIVIL CASES ARE DEEMED RELATED IF A PREVIOUSLY FILED CASE AND THE PRESENT CASE:

- A. Appear to arise from the same or substantially identical transactions, happenings or events;
- B. Involve the same or substantially the same parties or property;
- C. Involve the same patent, trademark or copyright;
- D. Call for determination of the same or substantially identical questions of law, or
- E. Likely for other reasons may entail unnecessary duplication of labor if heard by different judges.

List the California County or State (if other than California) in which each named plaintiff resides. (Use an additional sheet if necessary)

Jurisdiction is established pursuant to 46 U.S.C. 180-198, Supplemental Rule F.

List the California County or State (if other than California) in which each named defendant resides. (Use an additional sheet if necessary)

List the California County or State (if other than California) in which each claim arose. (Use an additional sheet if necessary)

Key to Statistical Codes relating to Social Security Cases:

<u>NATURE OF SUIT CODE</u>	<u>ABBREVIATION</u>	<u>SUBSTANTIVE STATEMENT OF CAUSE OF ACTION</u>
861	HIA	All claims for health insurance benefits (medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 USC 1395ff.(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 USC 923)
863	OIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 USC 405 (g))
863	OIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 USC 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 USC (a))